

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 03-10393-MLW

UNITED STATES

V.

STEVEN VARGAS

Defendant

ORDER ON DETENTION

ALEXANDER, M.J.

The defendant, Steven Vargas, appeared before this Court on February 2, 2005, pursuant to an arrest warrant issued by Judge Wolf on January 26, 2005, for violations of conditions of release. At the hearing, the government was represented by Antoinette Leoney and Mr. Vargas was represented by attorney Elizabeth Lunt. Mr. Vargas waived his right to a probable cause hearing, and the Court therefore heard from the government and Mr. Vargas only on the issue of detention.

On October 14, 2004, Mr. Vargas pled guilty to violating 18 U.S.C. § 922(a)(1)(A) (engaging in the business of dealing in firearms without a license), and conditions of release that had been previously set by Magistrate Judge Cohen were continued until the time of sentencing, currently scheduled for March 2005.

Those conditions of release included, *inter alia*, the execution by Mr. Vargas of an unsecured \$ 25,000 bond; that Mr. Vargas reside at 871 Middlesex Street, in Lowell, Massachusetts; that Mr. Vargas maintain or actively seek employment; that his travel be restricted to the District of Massachusetts and the District of Tennessee for court proceedings; that he refrain from use or unlawful possession of illegal narcotics; that he submit to any method of testing required by Pretrial Services for determining whether he is using a prohibited substance; and that he refrain from obstructing or attempting to obstruct or tamper with the efficiency and accuracy of any prohibited substance testing or electronic monitoring required as a condition of release.

On January 28, 2005, Mr. Vargas was arrested for violating the condition that he refrain from using illegal narcotics and because there were strong indications that he had not been residing at the Middlesex Street residence. This Court has considered the assertions of the government and defense counsel, as well as information provided by Pretrial Services. The evidence before the Court includes the fact that Mr. Vargas reported to Pretrial Services on January 21, 2005, that he had been smoking crack cocaine since December 2004. A urine test conducted on January 28, 2005, however, was negative. Mr. Vargas denied using a pill to mask the presence of the drug, but stated that he was aware how long the

drug would be detectable from a urine sample. Furthermore, defense counsel asserted that Mr. Vargas does have a drug problem, and requested that Mr. Vargas be placed in a residential drug treatment facility. It does not appear that Mr. Vargas made such a request when his original conditions of release were being set.

Moreover, also on January 21, 2005, Mr. Vargas's wife, Lilly Ruiz, contacted Pretrial Services, at two separate times, to report that Mr. Vargas had not been residing at the couple's residence in Lowell, Massachusetts, as he had been ordered to do; that Mr. Vargas was using illegal drugs; and that Mr. Vargas had abused her. Ms. Ruiz also contacted the Lowell police on January 21, 2005, to report that Mr. Vargas was abusing her. The police went to Ms. Ruiz's and Mr. Vargas's residence and thereafter issued an incident report.

Additionally, the government asserted during the detention hearing that Mr. Vargas was in violation of a probation order issued in Tennessee, and that Mr. Vargas has an outstanding default warrant related to an incident that occurred in Lowell in 1999.

On the basis of this information, the Court finds that there is no condition or combination of conditions that will assure that Mr. Vargas will not pose a danger to the safety of any other person or the community. The Court therefore ORDERS

that Mr. Vargas's release be REVOKED and that he be DETAINED pursuant to 18 U.S.C. § 3148(b).

SO ORDERED.

3/17/05

Date

/S/ Joyce London Alexander
United States Magistrate Judge